THE HON'BLE SRI JUSTICE P.S.NARAYANA

Writ Petition No.18442 of 2006

Date: 4th September, 2006

Between :-

Smt.K.Bharathi .. Petitioner

And

Municipal Commissioner,
Eluru Municipal Corporation,
Eluru, West Godavari District ..
Respondent

THE HON'BLE SRI JUSTICE P.S.NARAYANA

Writ Petition No.18442 of 2006

ORDER:-

The Writ Petition is filed for a Writ of Mandamus declaring the action of the respondent in attempting to demolish the construction situated in an extent of 300 Sq.Yards in T.S.No.309 and 310 of Eluru, West Godavari District without issuing any notice under Section 636 of the Hyderabad Municipal Corporation Act or giving him an opportunity of being heard pursuant to the notice under Section 452 of the Hyderabad Municipal Corporation Act to his explanation thereby and without passing any orders on his explanation is illegal, arbitrary, unjust, violative of fundamental rights guaranteed under the Constitution of India and apart from violative of principles of natural justice and also contrary to Law laid down by this Court and consequently direct the respondent not to interfere with his construction possession and enjoyment of the building situated in an extent of 300 Sq.Yards in T.S.No.309 and 310 of Eluru, West Godavari District without following due process of law and pass such other suitable orders.

2. It is stated that the petitioner purchased the site to an extent of 300 sq.yards in S.No.309 and 310 Door No.20B-2-5, situated in Eluru, West Godavari District. It is

stated that the respondent issued notice under Section 452 of the Hyderabad Municipal Corporation Act dated 14-2-2006 and the petitioner also had given an explanation on 17-2-2006. It is stated that the explanation was not considered nor any opportunity was given to the petitioner in this regard and without following the procedure under the provisions of the Hyderabad Municipal Corporation Act, it is stated that the respondent is trying to proceed with the demolition activity. It is needless to say that the respondent is expected to follow due process of law before resorting the demolition activity.

3. In view of the same, the Writ Petition is disposed of directing the respondent not to resort to the demolition activity unless further due process of law is followed. No order as to costs.

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Justice P.S.Narayana

4th September, 2006

Note: C.C. by tomorrow

(B/o.smr/sj)